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Letter dated 26 May 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 23 February 2005 (S/2005/123). The Counter-Terrorism Committee has received the attached fourth report from Uzbekistan submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 25 May 2005 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to submit to you herewith the fourth report of the Government of the Republic of Uzbekistan, which includes responses to the comments/questions of the Counter-Terrorism Committee contained in the letter from your predecessor, A. Denisov, dated 2 February 2005 (see enclosure).

(*Signed*) Alisher **Vohidov**
Permanent Representative

Enclosure

[Original: Russian]

Fourth report of the Republic of Uzbekistan on the implementation of Security Council resolution 1373 (2001) concerning counter-terrorism

Paragraph 1.1

Article 155 of the Criminal Code of the Republic of Uzbekistan
"Terrorism"

Terrorism is defined as violence, the use of force or other actions creating a danger to persons or property, or the threat of such actions, undertaken with a view to forcing a State body, an international organization or their senior officials, individuals or legal entities to carry out, or to refrain from carrying out, any activity, with the aim of complicating international relations, violating sovereignty and territorial integrity, undermining State security, provoking war or armed conflict, destabilizing the social and political situation or alarming the population, and also activities in support of the existence, functioning or financing of a terrorist organization, the preparation and commission of terrorist acts, as well as the direct or indirect provision or collection of any funds, resources or other services for terrorist organizations by any person who assists or participates in terrorist activities, and is punishable by a term of imprisonment from eight to ten years.

An attempt on the life of or the causing of bodily harm to a State or public figure or government representative in connection with their State or public activities in order to destabilize the situation, influence the taking of decisions by State bodies or impede political or other public activities is punishable by a term of imprisonment from 10 to 15 years.

Acts covered by the first or second part of this article and which lead to:

(a) Loss of life;

(b) Other grave consequences;

are punishable by a term of imprisonment from 15 to 20 years or by the death penalty.

Criminal liability is waived if a person involved in preparing an act of terrorism gives timely warning to the authorities or by some other means actively helps to prevent the onset of serious consequences and the realization of the terrorists' goals, providing that he has committed no other crime.

Paragraph 1.2

Resolution No. 661-II of 26 August 2004 of the Oliy Majlis (Parliament) of the Republic of Uzbekistan on the implementation of the Act on combating the legalization of income derived from criminal activity and the financing of terrorism will enter into force on 1 January 2006.

Under this resolution the Government of the Republic of Uzbekistan was also instructed to introduce proposals to bring the legislative acts and decisions of the

Government into line with the aforementioned Act and to launch a review by ministries, State committees and departments to repeal any legislation conflicting with that Act.

In accordance with this resolution, a specially empowered agency is currently being established that will monitor transactions made with funds and other assets if the amount of such transactions equals or exceeds four thousand times the minimum wage on the day the transaction was conducted. Such monitoring will cover not only illegal activities but also legal ones.

At the same time, appropriate amendments and additions are being introduced to existing legislation.

On 16 December 2004, the Cabinet of Ministers adopted resolution No. 583-95 on measures to improve the system for monitoring sources of capital formation in the financial system, pursuant to the provisions of Act No. 661-II of 26 August 2004 on combating the legalization of income derived from criminal activity and the financing of terrorism, with a view to improving the system for preventing the infiltration and legalization of income derived from criminal activity through capital formation in banks and other financial structures.

Despite the lack of rules in the Code of Criminal Procedure concerning the freezing of funds, in accordance with articles 3 and 5 of the Code inquiries from the Counter-Terrorism Committee relating to the identification and freezing of the assets of terrorist organizations and persons involved in their activities are answered within the framework of the International Convention for the Suppression of the Financing of Terrorism.

Paragraph 1.3

Resolution No. 661-II of 26 August 2004 of the Oliy Majlis of the Republic of Uzbekistan on the implementation of the Act on combating the legalization of income derived from criminal activity and the financing of terrorism will enter into force on 1 January 2006.

On 16 December 2004, the Cabinet of Ministers adopted resolution No. 583-95 on measures to improve the system for monitoring sources of capital formation in the financial system, pursuant to the provisions of Act No. 661-II of 26 August 2004 on combating the legalization of income derived from criminal activity and the financing of terrorism, with a view to improving the system for preventing the infiltration and legalization of income derived from criminal activity through capital formation in banks and other financial structures.

Paragraph 1.4

In accordance with paragraph 2 of the Revised Statute on non-cash transactions in the Republic of Uzbekistan (reg. No. 1122 of 15 April 2002), approved by resolution No. 60 (No. 1/4) of 12 January 2002 of the Board of the Central Bank of the Republic of Uzbekistan, banks in the Republic of Uzbekistan organize and conduct the following types of non-cash transactions:

(1) Settlement by payment order;

(2) Settlement by letter of credit;

(3) Encashment;

(4) Payment by cheque.

When such non-cash transactions occur, the following transaction documents are used:

(1) Transaction voucher;

(2) Payment order;

(3) Payment request;

(4) Encashment order;

(5) Letter of credit statement;

(6) Commercial bank cheque.

Non-cash transactions may also be made by means of credit cards.

The specific form of non-cash transactions and the transaction documents between the payer and the recipient of the funds is determined independently, depending on the contract (agreement) concluded.

Paragraph 1.5

Deposits into the accounts of non governmental organizations of funds provided through financial assistance and grants from foreign organizations and institutions are monitored in accordance with resolutions No. 62-8s of 10 February 2004 and No. 56 of 4 February 2004 of the Cabinet of Ministers on measures to increase the effectiveness of accounting for financial resources consisting of technical assistance, grants and humanitarian aid received from international, foreign governmental and non-governmental organizations.

In accordance with these resolutions, the current accounts of all grant recipients, public organizations and non-governmental funds have been transferred for servicing to the National Bank for Foreign Economic Activity and Asaka Bank (State Joint-Stock Company). Funds transmitted to non-governmental organizations are initially placed in the bank's "blocked account". A special commission (comprising representatives of the Central Bank, the National Bank for Foreign Economic Activity, Asaka Bank, the Ministry of Foreign Affairs and the Ministry of Justice) then considers whether to place the deposited funds into the current accounts of the recipient non-governmental organizations. The funds are transferred only if the commission so decides and their end use is monitored through local banking structures.

In addition, within the framework of implementing paragraph 5 of resolution No. 280 of 5 August 2002 of the Cabinet of Ministers on measures for further reducing extra-bank turnover of funds, the State Tax Committee and the Board of the Central Bank of the Republic of Uzbekistan issued a joint resolution on 27 December 2003 approving Rules on the procedure for commercial banks to transfer to the State Tax Committee electronic information concerning the turnover of funds in particularly large amounts (reg. No. 1321 of 3 March 2004).

According to these Rules, commercial banks are obliged to provide the State Tax Committee with information about their clients' transactions amounting, in the

case of legal entities, to more than 1,000 times and, in the case of private entrepreneurs, to more than 500 times the minimum wage. This information is analysed by a special group within the State Tax Committee and, if indications are found of transformation into cash, tax evasion and unusual banking transactions, there is additional monitoring of their activities. If the findings are confirmed, an audit is arranged of the activities of the individuals or legal entities (including non-profit organizations).

Paragraph 1.6

In accordance with the Act on combating the legalization of income derived from criminal activity and the financing of terrorism (which enters into force on 1 January 2006), plans have been made for the establishment by the Cabinet of Ministers of a specially empowered State agency to combat the legalization of income derived from criminal activity and the financing of terrorism. The Government of Uzbekistan is currently taking organizational and legal measures to establish the specially empowered State agency.

Paragraph 1.7

The conditions and procedure for granting mutual legal assistance are specified in articles 5 to 10 of the Code of Criminal Procedure and article 12 of the Criminal Code, and are regulated by the bilateral and multilateral agreements on this subject.

Paragraph 1.8

Apart from the procedural legislation governing investigative procedures leading to the criminal prosecution of persons engaged in terrorist activity, current legislation makes no provision for other forms of activity on the part of the law-enforcement agencies. The National Security Service, however, has its own internal regulations governing functions of operational units.

Paragraph 1.9

Current legislation regulates the use of investigative techniques involving the interception of telephonic or other forms of communication and the seizure of telegraphic communications. The principles and procedures governing the interception of communications are stated in articles 21 and 166 to 171 of the Code of Criminal Procedure.

Paragraph 1.10

Under article 270 of the Code of Criminal Procedure, where sufficient evidence exists that victims, witnesses or other participants in a case, or members of their families or close relatives, are being threatened with murder, violence or destruction or damage to their property or with any other illegal activity, the preliminary or pretrial investigator, prosecutor or judge are obliged to take measures to protect the life, health, honour, dignity or property of such persons, to establish the identity of the guilty parties and to institute criminal proceedings against them.

The preliminary or pretrial investigator, prosecutor or judge has the power to issue written instructions to internal affairs agencies to take the necessary measures

to ensure the protection of the life, health, honour, dignity and property of persons involved in a case.

Legal procedures to protect the victims of criminal acts, witnesses or other persons assisting law-enforcement agencies are provided for under the Code of Criminal Procedure. In particular, the rights and obligations of an injured party are set out in article 55, those of the injured party's representative in articles 61 and 63, those of a witness in article 66, those of an expert in article 70 and those of an official witness in article 74.

Article 155, section 4, of the Code of Criminal Procedure also provides that criminal liability is waived if a person involved in preparing an act of terrorism gives timely warning to the authorities or by some other means actively helps to prevent the onset of serious consequences and the realization of the terrorists' goals, providing that he has committed no other crime.

In addition, in accordance with chapters IV and V (arts. 22 and 26) of the Act on combating terrorism, persons who have suffered as a result of terrorist acts are guaranteed damages and social rehabilitation.

Paragraph 1.11

Article 155 of the Criminal Code contains provisions governing liability for terrorism, defined as the use of violence or force or other actions creating a danger to persons or property, or the threat of such actions, undertaken with a view to forcing a State body, an international organization or their senior officials, individuals or legal entities to carry out, or to refrain from carrying out, any activity, with the aim of complicating international relations, violating sovereignty and territorial integrity, undermining State security, provoking war or armed conflict, destabilizing the social and political situation or alarming the population, and also activities in support of the existence, functioning or financing of a terrorist organization, the preparation and commission of terrorist acts, as well as the direct or indirect provision or collection of any funds, resources or other services for terrorist organizations by any person who assists or participates in terrorist activities.

In 2004, 65 persons were convicted under this article.

Paragraph 1.12

The acquisition, possession, export and import of firearms are monitored by the Uzbek law-enforcement agencies under Presidential Decree No. 1871 of 10 October 1997 on additional measures to stimulate the export of goods (works, services) and resolution No. 137 of the Cabinet of Ministers of 31 March 1998 on additional measures to liberalize foreign trade operations in the Republic of Uzbekistan.

These matters are also governed by articles 246, 247, 248, 249 and 250 of the Criminal Code.

Paragraph 1.13

(A) In the interests of security and in order to improve procedures for the import, transport, stockpiling and use of explosives and explosive devices for industrial use,

and also in order to prevent any loss, theft or use of such materials for criminal purposes, resolution No. 213 of 6 May 2004 of the Cabinet of Ministers on measures to improve procedures governing the import, transport, stockpiling and use in the Republic of Uzbekistan of explosives and explosive devices contains a list of explosives for industrial use that are subject to import controls, as well as regulations on monitoring of the movement of explosives through the customs territory of Uzbekistan.

Resolution No. 109 of 5 March 2004 of the Cabinet of Ministers on measures to ensure safety in the processing, manufacture, transport, stockpiling and use of explosive and poisonous substances approved regulations on the licensing of operations involving the processing, manufacture, transport, stockpiling and use of explosive or poisonous substances, materials or products using such materials, and explosive devices.

Articles 246 to 256 of the Criminal Code establish liability for the illegal manufacture, stockpiling and transfer of unmarked or inadequately marked plastic or other explosives and their precursors.

(B) Information on sources, routes and methods that may be used by arms dealers and on how to prevent illegal deliveries of firearms, their components, spare parts or ammunition, or of explosives and their precursors is exchanged in the context of international and interdepartmental treaties and agreements.

Presidential Decree No. 1871 of 10 December 1997 on additional measures to stimulate the export of goods (works, services) lists goods the export and import of which are governed by foreign economic relations, as determined by the Cabinet of Ministers. These include the following categories of products:

- Weapons and military technology and bought-in components for their manufacture;
- Uranium and other radioactive substances, products made of such substances and radioactive waste;
- Instruments and equipment using radioactive substances, etc.

In addition, resolution No. 137 of 31 March 1998 of the Cabinet of Ministers on additional measures to liberalize foreign trade operations in the Republic of Uzbekistan gives the List of specific goods (works, services) the export and import of which require permission from the empowered agencies in Uzbekistan. Export of the results of scientific research, know-how and inventions is included in the List.

Act No. 213-II of 11 May 2001 on the transit of special cargoes and troops provides for monitoring of the carriage of dangerous cargoes, weapons, military technology, military property and troops. In pursuance of the Act, the Cabinet of Ministers adopted resolution No. 62 of 21 February 2002 on State regulation of the transit of special cargoes and troops across the territory of the Republic of Uzbekistan, which establishes the procedure for the carriage of special cargoes and troops.

Resolution No. 239 of 20 May 2005 of the Cabinet of Ministers on improvements in customs control of goods being moved in the territory of the Republic of Uzbekistan provides for a compulsory customs escort for various categories of goods, including goods for military use.

In order to ensure the security of Uzbekistan and in the interests of compliance with Uzbekistan's international obligations regarding the non-proliferation of weapons of mass destruction and other categories of arms, the Act on export controls was adopted on 26 August 2004.

Under article 8 of the Act, the Agency for Foreign Economic Relations is the State body empowered to manage export controls.

The Agency issues a written undertaking concerning the use of items subject to export controls by a foreign State in the territory of Uzbekistan for purposes stated beforehand.

The Agency is currently preparing a new list of items subject to export controls, together with procedures for the export and use of such items.

Paragraph 2.4

Bilateral agreements on combating terrorism have been signed at the interdepartmental level with the security services of the Russian Federation, Ukraine, Kazakhstan, Kyrgyzstan, Tajikistan, China and Azerbaijan and the executive authorities of Georgia.

Cooperation in the context of such agreements takes place by mutual request of the Parties, or when working meetings are arranged on specific issues.